IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3951 OF 2001

Shri Pauls Yeshwant Salvi
Age 59 years, Occ:- Pensioner
Residing at :- 2/A Sangam Park,
Maharshi Nagar, Pune-411 037. .... Petitioner.

V/s

1. State of Maharashtra

2. Maharashtra State Bureau of Text
Book Production and the
Curriculum Research,
"Balbharti", Senapati Bapat Road,
Pune-411 004.

3. The Director
Maharashtra State Bureau of Text-Book
Production and Curriculum Research,
Senapati Bapat Marg,
Pune - 411 004. ...Respondents

Shri A.V. Anturkar, Advocate for the petitioenrs.

Shri C.J. Sawant, Sr. Advocate with Shri R.S. Page,
Advocate for respondent.

CORAM: V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATE: 6TH JULY, 2004

ORAL JUDGMENT: (Per V.M. Kanade, J.)

1. Petitioner is seeking writ of mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India for quashing and setting aside the orders dated 12/4/2001 and also order dated 4/4/2001 and 9/4/2001 issued by respondent No.3 as a result of which departmental inquiry was initiated against him.

2. Petitioner was working as a Controller in the respondent No.2 - Maharasthra State Bureau of Text-Book production and Curricular Research (For short "Bureau") and was appointed by Order dated 4/2/1991. Respondent No.2 - Bureau was registered under the Societies Registration Act, 1960 and also under the Bombay Public Trusts Act, 1950. The Bureau undertakes to print quality text books on behalf of the State of Maharashtra. It is alleged by the Petitioner that on 12/4/2001, he received a copy of the order No.O-P/273 dated 12/4/2001 whereby a departmental inquiry was initiated against him. Along with the said order, a copy of the charge-sheet was also annexed in which three charges were levelled against him. The grievance of the petitioner is that since the petitioner had already retired on 30/6/2000, the departmental enquiry should not have been initiated against him without the sanction from the State Government as prescribed by the Maharashtra Civil Services Rules. The second submission of the petitioner is that an amount of Rs 84,706/- was sought to be recovered from him and this order was passed without giving any hearing to him. It is thirdly submitted that the petitioner was never reemployed in Government Service and, therefore, the third charge

which was levelled against him that he had not disclosed that he was a retired Government Servant was not applicable in his case.

3. Petition was admitted on 1/11/2001. Hearing of the Petition was expedited. However, no interim relief was granted and it was directed that the departmental enquiry should proceed.

4. We have heard the learned Counsel appearing on behalf of the petitioner and the respondents at length. In the present case, the petitioner has challenged initiation of the departmental enquiry by order dated 12/4/2001. The departmental enquiry has not been stayed. In our view, all the contentions raised by the petitioner in this petition can be raised by him in the departmental enquiry. The challenge to the departmental enquiry is premature and, as it is, departmental enquiry has not been stayed by this Court. Under the circumstances, we do not see, therefore, any reason to interfere with the said order passed by respondent No.3 while exercising our jurisdiction under Article 226 of the Constitution of India. It is however, made clear that all questions raised in the petition are kept open.

5. Writ Petition is accordingly dismissed. Rule is discharged with no order as to costs.

V.G. PALSHIKAR, J.

V.M. KANADE, J.